



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

November 4, 1996

OFFICE OF THE
REGIONAL ADMINISTRATOR

Thomas M. Coyne
President, Coyne Textile Services
P.O. Box 4854
Syracuse, NY 13221

Re: Request for Change of EPA-New England's Interpretation Regarding Textiles
Containing Hazardous Constituents

Dear Mr. Coyne:

Thank you for your letter of September 19, 1996 regarding EPA-New England's interpretation regarding textiles (rags or wipers) contaminated with hazardous constituents. Your letter requests that this region reconsider our view that current regulations require wipers contaminated with listed hazardous wastes to be handled as hazardous wastes or at least, agree not to enforce when there are less stringent state determinations regarding these textiles. A request for reconsideration of our interpretation by Mr. Peter Kynch of O'Hara & Hanlon, representing Coyne Textile Services, was answered on April 14, 1993. Our view has not changed from that presented in that response.

Whether soiled rags or wipers are to be disposed of or recycled (laundered), they are solid wastes (40 CFR 261.2). When solid waste wipers are contaminated with a listed hazardous waste (Sec. 261, Subpart D), the mixture is a hazardous waste (Sec. 261.3(2)(iv)). When solid waste wipers are contaminated with a listed hazardous waste or exhibit any of the characteristics of a hazardous waste (Sec. 261, Subpart C), they are subject to regulation under 40 CFR Parts 262 through 266, 268, 270 and 124.

We recognize that the current regulations have a significant impact on your business. EPA Headquarters currently is examining options for reducing the regulatory burden, including in the case of wipers heading for laundering, replacing the current full RCRA requirements with simplified handling requirements. Until this occurs, we must abide by what seems clearly evident in the current RCRA regulations. Moreover, in light of the need for careful handling of these materials and to guard against improper disposal, we are reluctant to reinterpret our current regulations so as to eliminate regulation from these materials entirely.

4/14/93

Peter Knych, Esquire
O'Hara & Hanlon
Attorneys at Law
One Park Place
Syracuse, New York 13202

Dear Mr. Knych:

This letter is in response to your February 10, 1993 letter on behalf of Coyne Textile Services. In your letter you requested that EPA Region I consider withdrawing or modifying its position regarding the regulatory status of soiled textiles. Region I has considered your request.

First, Region I calls to your attention that all of the states in Region I have been authorized to administer the base Resource Conservation and Recovery Act (RCRA) hazardous waste program, which includes issues associated with hazardous waste identification. Under this authorization, states enforce their own rules and regulations in lieu of the Federal program. Region I believes that this effectively renders the regulatory status of solvent contaminated wipers a state issue.

Secondly, as we discussed in our January 20, 1993 meeting, the issue as presented to us, is whether EPA is willing to create a limited exemption from the full RCRA regulatory scheme for solvent contaminated wipers that are to be reclaimed (laundered). The Region maintains that under its RCRA authority, any such Federal waste stream exemption can only be developed, if at all, on a national level. As you are also aware, there are currently at least two pending petitions on the national level which seek such a regulatory exemption for solvent contaminated wipers. As your letter notes, there may in fact be compelling reasons why such an exemption should exist. Your letter also points out, however, the compelling need to have this issue decided on a national level, mainly to reconcile the seemingly divergent state and Regional positions.

Further, you should note that it is our understanding that solvent contaminated wipers have been raised in conjunction with the universal waste stream discussions ongoing in Washington.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

May 12, 1992

Mr. Malcom Fox
Enviroscope, Inc.
101 N. Main Street
Suite 150-137
Ann Arbor, Michigan 48104

Dear Mr. Fox:

This letter is in response to your letter of January 22, 1992, requesting the Region's position regarding the applicability of the Resource Conservation and Recovery Act (RCRA) to solvent contaminated wipers. Initially, I wish to apologize for the delay in responding to your letter. This issue is one which has had a number of key issues affecting it both in the past and in the present. It was imperative that the Region carefully examine all of these factors before clarifying its position.

I would first like to stress that you should be aware that all of the states in Region I have been authorized to administer the base RCRA program, which includes issues associated with hazardous waste identification. Under this authorization, states enforce their own rules and regulations which have been deemed to be equivalent to those of the Federal program, but also which may be more stringent. Therefore, we encourage you to contact each state in the Region to determine their current position on the issue of applicability as well.

The Region has not previously formulated an official policy on the issue of solvent contaminated wipers. However, Region I believes that the solvent contaminated wipers are a hazardous waste and as such their handling must be in full compliance with the regulations under RCRA.

Under our interpretation of the RCRA regulations the contaminated wipers are solid waste when they are to be discarded, regardless of whether the wipers are to be laundered or thrown away, and regardless of how the solvent came in contact with the wiper.

The contaminated wipers are a spent material. (40 CFR § 261.1) If the wipers are being thrown away, then they are clearly being discarded. If the wipers are being laundered, then they are being reclaimed. Under either scenario the wipers are a solid waste as pursuant 40 CFR § 261.2.

Additionally, if the solid waste wipers are contaminated with a solvent listed in 40 CFR § 261.31, or exhibit a characteristic of a hazardous waste (40 CFR Section 261, Subpart C), they are a





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October 31, 1996

Steven A. DeGabriele, Director
Division of Hazardous Materials
Massachusetts Department of Environmental
Protection
One Winter Street
Boston, MA 02108

Dear Mr. DeGabriele:

As requested by Al Nardone of your staff at our meeting on July 11, 1996, the Hazardous Waste Program Unit of the EPA New England office has reviewed the draft MADEP Class C recycling permit for Global Recycling Technologies located in Stoughton, MA. A member of this office has also participated in a site visit on July 23, 1996, to the facility with representatives from the MADEP Boston and Regional offices. The purpose of this letter is to summarize the EPA's understanding of the issues associated with the activities of this facility and to indicate the Agency's current position on them. We would like to apologize for the delay in transmitting this letter. EPA wanted to ensure that this response included an opportunity for discussions with your staff regarding any issues that they may have had. Those discussions were completed on 10/23/96.

Global Recycling Technologies dedicates a portion of its business to the recycling of Class C regulated recyclable materials as defined under the MADEP Hazardous Waste regulations at 310 CMR 30.214. The MADEP regulates the recycling of these materials through the hazardous waste recycling permit regulations whereas, under the federal RCRA regulations at 40 CFR § 261.6(c)(1), the recycling process itself would be exempt from Subtitle C. These regulated recyclable materials are mercury contaminated manufactured articles and, as indicated in the permit include, but are not limited to, spent fluorescent lamps.

One area where DEP has specifically requested comment concerns the provision of the draft permit with respect to the handling of the fluorescent lamps prior to dismantling. As indicated above, EPA has reviewed the draft Class C permit which clearly indicates that storage of the regulated recyclable materials is not permitted at the facility. In addition, the Class C permit specifies an accumulation time period in order for the lamps to be off-loaded, inspected and sent to the dismantling area. EPA feels that this time period is reasonable and believes that the measures included in the Class C permit are adequate to protect human health and the environment. Those measures include a contingency plan and emergency procedures, employee training, an inspection plan and other requirements similar to those required in a complete Part B facility license.

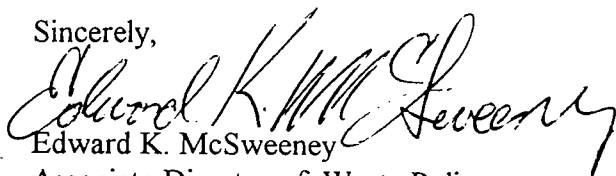


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As you are aware, the environmentally sound regulation of fluorescent lamp recycling is a complex issue. EPA Headquarters is exploring options to foster this and other forms of recycling through several regulatory options. In the interim, the State currently has the option of obtaining authorization to operate the Universal Waste Rule and including fluorescent lamps under that Rule. This should resolve any issues about whether and when these lamps become a solid waste, by considering lamps being sent for recycling as a Universal Waste subject only to streamlined regulation. It is my understanding that Massachusetts is planning to submit an authorization application for the UWR in the very near future. I look forward to working with you towards the mutual goal of authorizing the state for this important rule.

We would like to thank the MADEP for the opportunity to review the above referenced permit and to participate in the facility site visit. Should you have any questions regarding the above please contact me at 617-565-3559 or Gary Gosbee at 617-565-3725.

Sincerely,



Edward K. McSweeney
Associate Director of Waste Policy

cc: Al Nardone, MADEP
Bill Sirull, MADEP
Gary Gosbee, EPA-OEP
Suzanne Parent, EPA-OES



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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SEP 26 1996

Paul A. Ahearn, Director, Regulatory Compliance
Clean Harbors Environmental Services, Inc.
325 Wood Road
P.O. Box 327
Braintree, MA 02184

Re: Class 2 permit modification (carbamate wastes)
Clean Harbors of Natick, Inc.
EPA ID# MAD980523203

Dear Mr. Ahearn:

The New England office of the Environmental Protection Agency (the "Agency") has completed its review of the Clean Harbors of Natick, Inc. (the "facility") Class 2 permit modification request dated December 5, 1995, for authorization to manage newly-listed carbamate production wastes (see 60 FR 7824, February 9, 1995). The newly-listed wastes include certain wastes which are generated during the production of carbamate chemicals (the K-list) and also includes commercial chemical products or manufacturing intermediate wastes containing carbamates (U & P lists). These wastes are identified by USEPA waste code numbers: K156-K161, U271, U277-U280, U364-U367, U372, U375-U379, U381-U387, U389-U396, U400-U404, U407, U409-U411, P127, P128, P185, P188-P192, P194, P196-P199, and P201-P205. The final rule listing the new wastes became effective on August 9, 1995.

In addition to the newly listed wastes the facility also seeks authorization under the Class 2 modification request to manage previously listed wastes. Those wastes include: methyl bromide production wastes, USEPA waste code numbers K131 & K132; dimethylhydrazine product wastes, USEPA waste code number K107-K110; coke by products wastes, USEPA waste code numbers K141-K145 & K147; and chlorinated toluenes production waste, USEPA waste code number K149-K151.

The facility issued a public notice for the permit modification request on December 7, 1995, and submitted documentation to EPA that it notified all persons on the mailing list regarding the modification request, in accordance with 40 CFR § 270.42(b)(2).



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Additionally, in accordance with 40 CFR §270.42(b)(4), the facility held a public meeting on January 9, 1996. No comments were received during the public comment period.

The Agency has determined that the Clean Harbors permit modification request has satisfied the requirements of 40 CFR § 270.42(b) for a Class 2 modification. Based on this determination the Agency hereby approves the above referenced modification request pursuant to 40 CFR § 270.42(b)(6)(iii). Based on the authority granted by this modification the facility is permitted to manage only those wastes as indicated above and listed in the facility's revised part A application. This is in addition to any other wastes that the facility is currently permitted to manage in accordance with the Part B permit. This approval only serves to modify those conditions specifically stated in this approval letter, all other permit conditions remain the same.

The action to list these wastes is taken pursuant to Sections 3001(e)(2) and 3001(b)(1) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6921(e)(2) and 6921(b)(1), as further amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6901 et. seq. Section 3006 of RCRA provides EPA with the authority to issue permits for any new requirements and prohibitions until a State is authorized to do so. That section provides that in an authorized State (i.e., Connecticut) the Administrator "shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of 1984". This situation continues until the State revises its program pursuant to 40 CFR § 271.21 to add the wastes to its regulated universe and receives EPA's approval. The facility should be aware, however, that this approval does not relieve it of any responsibility to comply with any other applicable Federal, State or local regulations or requirements.

Should you have any questions regarding this approval please contact Sharon Leitch in the Hazardous Waste Program Unit. She may be reached at (617)565-4879.

Sincerely,



David A. Fierra, Director
Office of Ecosystem Protection

cc: Kevin McSweeney, Associate Director of Waste Policy, EPA-OEP
Gary Gosbee, Chief, Hazardous Waste Program Unit, EPA-OEP
Jane Downing, Chief, Massachusetts Program Unit, EPA-OEP
Steve DeGabriele, Director, Bureau of Waste Prevention, MADEP
Al Nardone, Licensing and Permitting, MADEP

only those newly-listed carbamate wastes as indicated above and listed in the facility's revised part A application. This is in addition to any other wastes that the facility is currently permitted to manage in accordance with the Part B permit. This approval only serves to modify those conditions specifically stated in this approval letter, all other permit conditions remain the same.

The action to list these carbamate wastes is taken pursuant to Sections 3001(e)(2) and 3001(b)(1) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6921(e)(2) and 6921(b)(1), as further amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6901 et. seq. Section 3006 of RCRA provides EPA with the authority to issue permits for any new requirements and prohibitions until a State is authorized to do so. That section provides that in an authorized State (i.e., Massachusetts) the Administrator "shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of 1984". This situation continues until the State revises its program pursuant to 40 CFR § 271.21 to add the wastes to its regulated universe and receives EPA's approval. The facility should be aware, however, that this approval does not relieve it of any responsibility to comply with any other applicable Federal, State or local regulations or requirements.

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Sincerely,



David A. Fierra, Director
Office of Ecosystem Protection

cc: Kevin McSweeney, Associate Director of Waste Policy, EPA-OEP
Gary Gosbee, Chief, Hazardous Waste Program Unit, EPA-OEP
Jane Downing, Chief, Massachusetts Program Unit, EPA-OEP
Steve DeGabriele, Director, Division of Hazardous Materials, MADEP
Al Nardone, Licensing & Permitting, MADEP



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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SEP - 4 1996

Paul A. Ahearn, Director, Regulatory Compliance
Clean Harbors Environmental Services, Inc.
325 Wood Road
P.O. Box 327
Braintree, MA 02184

Re: Class 2 permit modification (carbamate wastes)
Clean Harbors of Connecticut, Inc.
EPA ID# CTD000604488

Dear Mr. Ahearn:

The New England office of the Environmental Protection Agency (the "Agency") has completed its review of the Clean Harbors of Connecticut, Inc. (the "facility") Class 2 permit modification request dated December 1, 1995, for authorization to manage newly-listed carbamate production wastes (see 60 FR 7824, February 9, 1995). The newly-listed wastes include certain wastes which are generated during the production of carbamate chemicals (the K-list) and also includes commercial chemical products or manufacturing intermediate wastes containing carbamates (U & P lists). These wastes are identified by USEPA waste code numbers: K156-K161, U271, U277-U280, U364-U367, U372, U375-U379, U381-U387, U389-U396, U400-U404, U407, U409-U411, P127, P128, P185, P188-P192, P194, P196-P199, and P201-P205. The final rule listing the new wastes became effective on August 9, 1995.

The facility issued a public notice for the permit modification request on December 5, 1995, and submitted documentation to EPA that it notified all persons on the mailing list regarding the modification request, in accordance with 40 CFR § 270.42(b)(2). Additionally, in accordance with 40 CFR §270.42(b)(4), the facility held a public meeting on January 10, 1996. No comments were received during the public comment period.

The Agency has determined that the Clean Harbors permit modification request has satisfied the requirements of 40 CFR § 270.42(b) for a Class 2 modification. Based on this determination the Agency hereby approves the above referenced modification request pursuant to 40 CFR § 270.42(b)(6)(iii). Based on the authority granted by this modification the facility



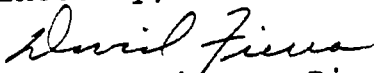
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is permitted to manage only those newly-listed carbamate wastes as indicated above and listed in the facility's revised part A application. This is in addition to any other wastes that the facility is currently permitted to manage in accordance with the Part B permit. This approval only serves to modify those conditions specifically stated in this approval letter, all other permit conditions remain the same.

The action to list these carbamate wastes is taken pursuant to Sections 3001(e)(2) and 3001(b)(1) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6921(e)(2) and 6921(b)(1), as further amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6901 et. seq. Section 3006 of RCRA provides EPA with the authority to issue permits for any new requirements and prohibitions until a State is authorized to do so. That section provides that in an authorized State (i.e., Connecticut) the Administrator "shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of 1984". This situation continues until the State revises its program pursuant to 40 CFR § 271.21 to add the wastes to its regulated universe and receives EPA's approval. The facility should be aware, however, that this approval does not relieve it of any responsibility to comply with any other applicable Federal, State or local regulations or requirements.

Should you have any questions regarding this approval please contact Sharon Leitch in the Hazardous Waste Program Unit. She may be reached at (617)565-4879.

Sincerely,



David A. Fierra, Director
Office of Ecosystem Protection

cc: Kevin McSweeney, Associate Director of Waste Policy, EPA-OEP
Gary Gosbee, Chief, Hazardous Waste Program Unit, EPA-OEP
John Hackler, Chief, Connecticut Program Unit, EPA-OEP
David Nash, Director, Bureau of Waste Management, CTDEP
David Satler, Supervisor, CTDEP



38-B Industry Avenue
Springfield, MA 01104

Phone: 413-734-3399
FAX: 413-734-3475

Kevin McSweany,
Associate Director for Waste Policy
US EPA Region 1, mail code CAA
JFK Federal Building
Boston, MA 02203

RE: Mercury Containing Lamp Recycling Operations

Mr. McSweany:

Per a conversation with Lisa Papeti, Region I of the United States Environmental Protection Agency (USEPA), and Bill Sirull, of the Massachusetts Department of Environmental Protection (DEP), regarding a mercury containing lamp recycling operation, it was suggested that you be notified of Alta Resource Management Services, Inc.'s (ALTA) intention to perform full scale lamp recycling services.

The DEP has indicated that ALTA is operating consistent with the Code of Massachusetts Regulations (CMR). ALTA has been advised by the DEP that the USEPA may have different or additional requirements for the management of used intact mercury containing lamps going for recycling. ALTA's goal is to comply with all regulatory authorities.

For background purposes, the USA Lights Fluorescent Lamp Processing System purchased by ALTA, will be used to separate mercury containing hazardous components from non-hazardous components contained in fluorescent and HID lamps. ALTA has made several operating modifications to the equipment to enhance the mechanical operations of the equipment at a significant cost to ALTA.

The system, which operates under a negative pressure, breaks the lamps and crushes the components. The components are then separated into the aluminum, ferrous and non-ferrous metals, glass, and phosphor powder. The equipment has the capability to process 2500 lamps per hour.

Random samples for each of the components are taken and TCLP tested. The phosphor powder is sent to a fully permitted mercury recycling facility for reclamation.

Mercury vapor and phosphor dust released from the lamps during crushing and material separation is captured by the system's continuous duty carbon dust/vapor collection system. The environment and venting are monitored twice per operating shift utilizing a Jerome mercury monitoring analyzer.

Mercury emissions to the atmosphere are designed to be $< 1 \text{ mg/m}^3$ (99.995% mercury removal efficiency). This result is based on a particulate and mercury emission engineering test on the glass processor filter system at the USA Lights facility in St. Paul, Minnesota, on August 23, 1994, as conducted by Pace Incorporated. Data is on file at ALTA for USEPA review. Interior air is re-circulated through a closed system consisting of five filtered inlets and ten carbon filters before being exhausted back into the room. This allows any escaped mercury vapor and



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Springfield, MA 01104

Phone: 413-734-3399
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phosphor powder to be filtered out of the processing area. All used filters and carbon filters are sent off site for retort.

ALTA was founded on the premise that in order to differentiate ourselves within the marketplace we would not only comply with, rather, implement mechanisms to exceed the regulations. ALTA finds itself in a difficult position in regards to our goal. The regulations seem to vary across the different regulatory authorities. While ALTA has constructed its facility and procedures to exceed the most stringent regulations, we would like to seek guidance on how the Region views the regulations that ALTA is required to comply with now and in the future.

For instance, should ALTA allocate the resources and spend the significant amount of time and money applying, and getting approval for a Massachusetts Class A or C recycling permit now? Will that be required in the future? ALTA's resources are limited and we obviously want to show prudence in our allocation of these resources.

ALTA understands that the Northeast Waste Management Officials' Association has been created to foster an environment where the six New England states, New York, and New Jersey can work together in developing a complimentary approach for state implementation of the EPA universal waste rule. Further, that the USEPA is aware that each State's regulations within Region I are currently different in relation as to how the used intact mercury containing lamps are handled, and therefore, ALTA respectfully requests that Region I defer the issues of the handling of the mercury containing lamps to the State level.

It would be optimal for these issues to be resolved with the MADEP's involvement so both regulating parties and ALTA will know exactly how to proceed. We are prepared to meet with the Region (perhaps jointly with the MADEP) to discuss these issues further.

Please do not hesitate to contact me for any additional information.

Thank You

David J. Leishman
President

cc: John DeVillars
Commissioner Struhs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
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May 31, 1996

Michael J. Mains, Environmental Compliance Manager
KTI Environmental Group, Inc.
110 Main Street, Suite 1308
Saco, ME 04072

Re: MWC Ash/Maine Energy Recovery Company

Dear Mr. Mains:

This is in response to your letter dated May 3, 1996, in which you request an "advisory opinion" as to the adequacy of the Maine Energy Recovery Company's facility ash sampling and analysis plan relevant to the proposed guidance from the EPA.

EPA is not in a position to evaluate the sampling and analysis plan you refer to since we currently have no jurisdiction over the ash as a RCRA Subtitle C waste. The history behind this issue may help to clarify our position.

The Supreme Court issued an opinion on May 2, 1994, which held that ash generated at resource recovery facilities (i.e waste-to-energy facilities burning household hazardous waste and non-hazardous commercial wastes) that exhibits a hazardous waste characteristic is not exempt from the hazardous waste requirements of RCRA Subtitle C. In response to this decision EPA-New England notified the effected facilities in the region and requested that they test their ash to determine if it exhibited a hazardous waste characteristic. All of the effected facilities at that time responded to our request, including the Maine Energy Recovery facility, and it was determined that none of the ash from these facilities exhibited a hazardous waste characteristic.

It is the responsibility of the person who generates a solid waste to determine whether the waste is a hazardous waste following the procedures outlined in 40 CFR Part 261. So long as the ash continues to test non-hazardous RCRA Subtitle C does not apply. The State of Maine, however, does regulate the ash. We suggest that you consult with them regarding the specifics of their regulations.



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Should you have any questions regarding the above please contact me at (617)565-4879.

Sincerely,



Sharon M. Leitch, Environmental Engineer
Hazardous Waste Program Unit

cc: Gary Gosbee, Chief, Hazardous Waste Program Unit, EPA
Stacey Ladner, Remediation & Waste Management, MEDEP
Steve Silva, Chief, Maine State Program Unit, EPA

FILE COPY

Gary



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
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APR 2 1996

Mr. James V. Surwilo
Agency of Natural Resources
Department of Environmental Conservation
Waste Management Division
103 South Main Street
Waterbury, Vermont 05671-0404

Dear Mr. Surwilo:

This letter is in response to your letter of February 3, 1996, to Ms. Betsy Davis concerning possible revisions to Vermont's Solid Waste Management Rules and how those revisions might affect the previous Adequacy Determination made by EPA.

In your letter you made reference to Section 239.12 of the draft and asked if it had been finalized. On January 26, 1996, EPA published as a proposed rule (61FR2584) Subtitle D Regulated Facilities; State/Tribal Permit Program Determination of Adequacy; State/Tribal Implementation Rule (STIR). I have enclosed a copy for your use. The comment period for this proposed rule ends on April 25, 1996. The proposed rule modifies the earlier draft STIR; however, the Agency does not expect any disruption of previously approved programs.

We agree with your assessment that it may be preferable for Vermont to submit to the Regional Administrator a complete package of all proposed rules. This would allow the Regional Administrator, in accordance with 239.12 (e) the opportunity to make a determination whether the State Director must submit a revised application. If this is necessary, the Regional Administrator will inform the State Director in writing, specifying the required revisions and establishing a schedule for submission of the revised application.

Relative to your brainstorming idea about streamlining the post-closure care process, our initial thought was that this change might not constitute a change that would require a revised application. The final decision would rest with formal notification by the State in accordance with 239.12(d) and our formal response as discussed earlier. However, it appears that Vermont's existing rules in this area are more stringent than the EPA Part 258 provisions and what the State may propose would remain more stringent. If this is the case, a revised application would not appear necessary.



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I apologize for the delay in getting back to you. The Subtitle D STIR Program is a new responsibility for me and I had to research information which took time. Please submit any correspondence relative to this issue to my attention with a copy to Ms. Davis. If you require, additional clarification or assistance please contact me at (617) 565-3725.

Sincerely,



Gary B. Gosbee, Chief
Hazardous Waste Program Unit
Office of Ecosystem Protection

enclosure:

cc: Betsy Davis, EPA, OEP, VT Unit
Kevin McSweeney, EPA, OEP

gary

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

February 23, 1996

Mr. Robert M. Eaton
Novacor Chemicals, Inc.
P.O. Box 5460
Decatur, AL 35601

Dear Mr. Eaton:

This letter is in response to your April 26, 1995, request to Region I of the Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MA DEP) for a determination of "co-product" status for the "purge monomer" generated at Novacor's Indian Orchard, Massachusetts plant (the facility). We would like to apologize for the delay in responding to your request, the complexity of the issue and our desire to maintain a strong working relationship with the company to reach agreement on the issue have added to the delay.

We believe that since the MA DEP is authorized for the base RCRA program, the State should respond to your request. However, since the MA DEP authorization does not include the HSWA authority to make boiler and industrial furnace closure/permit decisions we shall consider any classification decision made by the State for its impact on our closure/permit authority.

We are aware and supportive of the facility's desire to continue to manage the material on-site and are also aware that the facility does not wish to pursue a RCRA/HSWA Part B permit for the boiler unit. In an attempt to meet the facility's goal we would like to suggest that the following factors would allow the facility to continue to burn the purge monomer. The EPA approved closure plan provides that the facility must initiate closure procedures 180 days from the approval date (May 29, 1996). The facility is currently allowed to burn the purge monomer until that date.

In addition, it is our understanding that the soon to be published proposed combustion rule may include a comparable fuels specification that may be applicable to your situation. If the proposed comparable fuel specification is applicable to the Indian Orchard facility, we would entertain a request from the facility that the closure implementation date be deferred pending final promulgation of the combustion rule referenced above and a review of its applicability to the Indian Orchard facility.

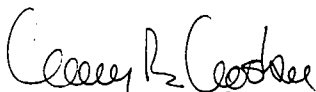


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The facility should realize that future federal, state or local regulations which may be promulgated subsequent to this decision could effect EPA's current position.

Should you have any questions regarding the above or would like to further discuss some of the issues, please give me a call at (617) 565-3725. If you have any questions regarding the closure issues please contact Sharon Leitch of my staff at (617) 565 - 4879.

Sincerely,



Gary B. Gosbee, Chief
Hazardous Waste Program Unit

cc: Michael Garvey, Novacor-Indian Orchard
Mark Lesky, Novacor Chemical, Inc.
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